

# Advisory Opinion

IECDB AO 2005-01

February 17, 2005

Subject: Police Chief Serving as Deputy Sheriff

William P. Angrick II  
Citizens' Aide/Ombudsman  
Ola Babcock Miller Building  
1112 East Grand Avenue  
Des Moines, Iowa 50319

Dear Mr. Angrick:

This opinion is in response to your letter of January 17, 2005, requesting an opinion from the Iowa Ethics and Campaign Disclosure Board. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 68A and 68B and rules in Iowa Administrative Code chapter 351.

## FACTUAL STATEMENT:

We understand you request this opinion in your capacity as the Citizens' Aide/Ombudsman. You notify us that a complaint was filed with your office concerning a police chief also being employed as a deputy sheriff. You are seeking the Board's opinion concerning whether or not this practice would be prohibited under the conflict of interest law in Iowa Code chapter 68B.

## QUESTION:

Does the conflict of interest law in Iowa Code section 68B.2A prohibit a city police chief from also serving as a county deputy sheriff?

## OPINION:

The Board first notes that this opinion applies the applicable law solely to your general question and the Board will not speak to the specific issues raised by the complainant in his communications to your office.

Iowa Code section 68B.2A in pertinent part states:

“Any person who serves or is employed by...a political subdivision of the state shall not engage in any outside employment or activity which is in conflict with the person’s official duties and responsibilities.”

The Board is of the opinion that the phrase “outside employment or activity” encompasses a public official or employee holding another position in government. Thus, a conflict of interest may exist when an individual holds two positions in government.

We understand that it is not uncommon in Iowa for a small city to employ a county deputy sheriff as the city’s police chief. We also understand that this is frequently accomplished through a 28E agreement<sup>1</sup> or some other arrangement between the city and county for a shared law enforcement service.

It is our opinion that such situations do not create an impermissible conflict between the person’s personal or financial interest with his or her official responsibilities as contemplated by Iowa Code section 68B.2A.

In the absence of a 28E agreement or some other arrangement, so long as both employers are aware of the situation and there is a clear delineation of hours and compensation by each jurisdiction this situation would not be a conflict of interest.

#### BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair  
Janet Carl, Vice Chair  
Gerald Sullivan  
Betsy Roe  
John Walsh  
Patricia Harper

Submitted by: W. Charles Smithson, Board Legal Counsel

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<sup>1</sup>See Iowa Code chapter 28E “Joint Exercise of Governmental Powers.”